

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**CAPITOL AGGREGATES, INC.,**

*Plaintiff,*

**v.**

**Case No. 5:23-CV-00719-JKP**

**IPEC, INC.,**

*Defendant.*

**ORDER**


Before the Court is Defendant IPEC, Inc.'s Motion for Summary Judgment. *ECF No. 17*. On July 9, 2024, Plaintiff Capitol Aggregates, Inc. filed an Unopposed Motion for Leave to Amend its Complaint. *ECF No. 26 at 2*. In Plaintiff's Amended Complaint, Plaintiff removed its claims of damages associated with lost sales. *Id.*; *ECF No. 27*. Consequently, on September 23, 2024, Defendant filed an Unopposed Motion for Leave to File its Second Amended Answer. *ECF No. 29*.

In light of the procedural posture of this case, and because certain issues appear to be moot, the Court grants IPEC, Inc. leave to refile its Motion for Summary Judgment within 14 days of the filing of Defendant's Second Amended Answer.

Accordingly, the Court STRIKES Defendant IPEC, Inc.'s Motion for Summary Judgment subject to refiling. *ECF No. 17*.

It is so ORDERED.  
SIGNED this 30th day of September, 2024.

(Signature on Next Page).



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JASON PULLIAM  
UNITED STATES DISTRICT JUDGE

